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T.B.

APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.
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09/530,303 04/27/00 KING

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QM12/0523

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CHRISTOPHER R KING  
7508 WOOD COURT  
FISHERS IN 46038

EXAMINER
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MANAHAN, T

ART UNIT	PAPER NUMBER
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3732

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DATE MAILED:

05/23/01

Please find below and/or attached an Office communication concerning this application or proceeding.

Commissioner of Patents and Trademarks

1-10  
9-1

# Office Action Summary

Application No.

09/530,303

Applicant(s)

King

Examiner

Todd E. Manahan

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

## Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136 (a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133).
- Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

## Status

- 1) ☐ Responsive to communication(s) filed on \_\_\_\_\_
- 2a) ☐ This action is FINAL. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11; 453 O.G. 213.

## Disposition of Claims

- 4) ☒ Claim(s) 1-17 is/are pending in the application.
- 4a) Of the above, claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 1-17 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_\_ is/are objected to.
- 8) ☐ Claims \_\_\_\_\_ are subject to restriction and/or election requirement.

## Application Papers

- 9) ☒ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 27 Apr 2000 is/are objected to by the Examiner.
- 11) ☐ The proposed drawing correction filed on \_\_\_\_\_ is: a) ☐ approved b) ☐ disapproved.
- 12) ☐ The oath or declaration is objected to by the Examiner.

## Priority under 35 U.S.C. § 119

- 13) ☐ Acknowledgement is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d).
- a) ☐ All b) ☐ Some\* c) ☐ None of:
- ☐ Certified copies of the priority documents have been received.
  - ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_
  - ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- \*See the attached detailed Office action for a list of the certified copies not received.
- 14) ☐ Acknowledgement is made of a claim for domestic priority under 35 U.S.C. § 119(e).

## Attachment(s)

- 15) ☒ Notice of References Cited (PTO-892)
- 16) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 17) ☐ Information Disclosure Statement(s) (PTO-1449) Paper No(s). \_\_\_\_\_
- 18) ☐ Interview Summary (PTO-413) Paper No(s). \_\_\_\_\_
- 19) ☐ Notice of Informal Patent Application (PTO-152)
- 20) ☐ Other: \_\_\_\_\_

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## DETAILED ACTION

### *Drawings*

The drawings are objected to because they contain extensive errors. Examples of such errors include: Solid black shading rendering the figures unreadable; reference characters " A, B, C, D, E, F, G" etc. have been used to designate more than one distinct element of the invention. The same part of an invention appearing in more than one view of the drawing must always be designated by the same reference character, and the same reference character must never be used to designate different parts. 37 CFR 1.84(p)(4); modified forms of construction can not be shown in the same view (e.g. figure 14); they contain extraneous matter, i.e. descriptive wording, which is not permitted; and here is no Figure 13. Extensive corrections are required in response to this action. See 37 CFR 1.84 which sets forth drawing standards for patent applications and MPEP 608.2.

Applicant is **required to submit a proposed drawing correction** in response to this Office Action to correct the defects noted above. Any proposal by the applicant for amendment of the drawings to cure defects must consist of two parts:

- a) A *separate* letter to the Draftsman in accordance with MPEP § 608.02(r); and
- b) A print or pen-and-ink sketch showing changes in *red ink* in accordance with MPEP § 608.02(v).

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IMPORTANT NOTE: The filing of new formal drawings to correct the noted defect may be deferred until the application is allowed by the examiner, but the print or pen-and-ink sketch with proposed corrections shown in red ink is required in response to this Office Action, and *may not be deferred*.

### *Specification*

This application does not contain an abstract of the disclosure as required by 37 CFR 1.72(b). An abstract on a separate sheet is required.

The disclosure is objected to because of the following informalities:

The specification is written in numerous different fonts of various sizes thus making reading difficult and reproduction thereof impossible. Furthermore, the spacing of the lines of the specification is such as to make reading and entry of amendments difficult. The specification also does not include a brief description of each drawing. The specification should also use reference characters to designate each element of the inventions that each element can be identified and described.

The lengthy specification has not been checked to the extent necessary to determine the presence of all possible minor errors. Applicant's cooperation is requested in correcting any errors of which applicant may become aware in the specification.

A substitute specification including claims is required pursuant to 37 CFR 1.125(a) because of the extensive informalities listed above.

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A substitute specification filed under 37 CFR 1.125(a) must only contain subject matter from the original specification and any previously entered amendment under 37 CFR 1.121. If the substitute specification contains additional subject matter not of record, the substitute specification must be filed under 37 CFR 1.125(b) and must be accompanied by: 1) a statement that the substitute specification contains no new matter; and 2) a marked-up copy showing the amendments to be made via the substitute specification relative to the specification at the time the substitute specification is filed.

***Claim Rejections - 35 USC § 101***

35 U.S.C. § 101 reads as follows:

"Whoever invents or discovers any new and useful process, machine, manufacture, or composition of matter or any new and useful improvement thereof, may obtain a patent therefore, subject to the conditions and requirements of this title".

Claims 5-11 are rejected under 35 U.S.C. § 101 because they appear to embrace more than one statutory class of invention. Claims which are intended to embrace both product or machine and process is precluded by language of 35 USC 101, which sets forth statutory classes of the invention in the alternative only. Claims which embrace multiple statutory classes of invention is prohibited (See *Ex parte Lyell*, 17 USPQ2d 1548 (1990)).

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***Claim Rejections - 35 USC § 112***

The following is a quotation of the first paragraph of 35 U.S.C. 112:

The specification shall contain a written description of the invention, and of the manner and process of making and using it, in such full, clear, concise, and exact terms as to enable any person skilled in the art to which it pertains, or with which it is most nearly connected, to make and use the same and shall set forth the best mode contemplated by the inventor of carrying out his invention.

Claims 12-17 are rejected under 35 U.S.C. 112, first paragraph, as being a single means claim and thus are of undue breadth. A single means claim which covers by every conceivable means for achieving the stated purpose is nonenabling for the scope of the claim because the specification discloses at most only those means known to the inventor. *In re Hyatt*, 708 F.2d 712, 714-715, 218 USPQ 195, 197 (Fed. Cir. 1983).

The following is a quotation of the second paragraph of 35 U.S.C. 112:

The specification shall conclude with one or more claims particularly pointing out and distinctly claiming the subject matter which the applicant regards as his invention.

Claims 5-11 are invalid under 35 USC 112, second paragraph, since a claim which purports to be both machine and process is ambiguous and therefore does not particularly point out and distinctly claim the subject matter of the invention. *Ex parte Lyell*, 17 USPQ2d 1548 (1990). Therefore, these claims will not be further treated on the merits thereof.

Claims 1-4, 12-17 are rejected as failing to define the invention in the manner required by 35 U.S.C. 112, second paragraph.

The claim(s) are narrative in form and replete with indefinite and functional or operational language. The structure which goes to make up the device must be clearly and positively

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specified so as to make a complete and operative device. Furthermore, in claim 12, the relative terminology "more perpendicular" is indefinite in that no reference point is recited for such relative terminology; claim 15, "bend under means" is improper "means-plus-function" terminology. The structure must be organized and correlated in such a manner as to present a complete operative device. The claim(s) must be in one sentence form only. Note the format of the claims in the patent(s) cited.

***Claim Rejections - 35 USC § 102***

The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless --

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

Claims 1-3, as understood, are rejected under 35 U.S.C. 102(b) as being anticipated by Esposto (U.S. Patent No. 4,108,186).

Esposto discloses a hair processing device which isolates small numbers of hairs between projections. The projections comprise tine assemblies of a comb and form stationary channels 18 therebetween.

Claims 1-4, as understood, are rejected under 35 U.S.C. 102(b) as being anticipated by Matsumura (U.S. Patent No. 3,903,903).

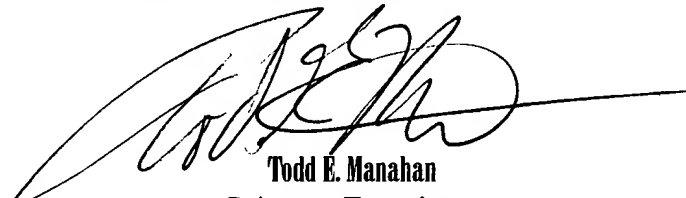
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Matsumura discloses a hair processing device which isolates small numbers of hairs between projections. The projections comprise tine assemblies 1, 3, and form stationary channels therebetween. The tine assemblies comprise moving hair handlers shaped to push hairs in a desired direction as set forth in column 2, lines 1-40.

*Conclusion*

The prior art made of record and not relied upon is considered pertinent to applicant's disclosure.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Todd E. Manahan whose telephone number is (703) 308-2695.



Todd E. Manahan  
Primary Examiner  
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T. E. Manahan  
May 15, 2001